

**REMARKS**

The Office Action mailed September 4, 2009 has been carefully considered.

Reconsideration in view of the following remarks is respectfully requested.

**Record of Interview**

On November 25, 2009, an interview was conducted by telephone between Examiner Shanto Abedin and the undersigned. The Applicant thanks the Examiner for granting this interview. The details of the interview are set forth in the Interview Summary document made of record.

**Claim Status and Amendment of the Claims**

Claims 1-46 are currently pending.

No claims stand allowed.

Claims 1, 13, 23, and 38-43 have been amended to further particularly point out and distinctly claim subject matter regarded as the invention.

Claims 47-49 have been added. No new matter has been added. Support for the amendments is found in the specification, claims, and figures as originally filed.

The Applicant gratefully acknowledges the allowability of Claims 35-43, subject to overcoming the double patenting issues outlined in the Office Action and to their re-writing in independent form including all of the limitations of the base claim and any intervening claims.

The Nonstatutory Double Patenting Rejection

Claims 1-46 stand provisionally rejected as allegedly being unpatentable over Claims 1-2, 4-14, 15-24, and 26-39 of copending and commonly assigned U.S. Patent Application Serial No. 10/458,628.<sup>1</sup> Submitted herewith is a Terminal Disclaimer in compliance with 37 C.F.R. § 1.321(c). Withdrawal of the nonstatutory double patenting rejection is respectfully requested.

The 35 U.S.C. § 103 Rejection

Claims 1-34 and 44-46 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Tsuchiya et al.<sup>2</sup> in view of Mao et al.<sup>3</sup> and further in view of Kameda.<sup>4 5</sup> This rejection is respectfully traversed.

According to the Manual of Patent Examining Procedure (M.P.E.P.),

To establish a *prima facie* case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the applicant's disclosure.<sup>6</sup>

Claim 1

Claim 1 as presently amended recites:

A network access device comprising:  
a plurality of input ports;  
a memory for storing data packets received on the plurality of input ports;

---

<sup>1</sup> Office Action mailed September 4, 2009, at ¶ 7.

<sup>2</sup> U.S. Patent No. 7,360,086 to Tsuchiya et al.

<sup>3</sup> U.S. Patent No. 7,302,700 to Mao et al.

<sup>4</sup> U.S. Publication No. 2003/0028808 to Kameda

<sup>5</sup> Office Action at ¶ 8.

<sup>6</sup> M.P.E.P § 2143.

a switching fabric configured for packet switching of the data packets to at least one output port; and  
control logic adapted to:  
    examine a first data packet comprising a physical address of a user device coupled to one of the plurality of input ports;  
    authenticate the physical address;  
    if the authentication of the physical address indicates the physical address is valid, authenticate user information provided in a second data packet by a user of the user device after the physical address is authenticated; and  
    if the authentication of the user information indicates the user information is valid and if the network access device has enough system resources to dynamically configure a user policy, dynamically assign the user policy to the one of the plurality of input ports and restrict further traffic on the one of the plurality of input ports in accordance with the user policy.

Embodiments of the invention as presently claimed authenticate a user device physical address within a first data packet when the user device is coupled to an input port of a network switch, and only if the physical address authentication succeeds, then authenticates user credentials information in a *second* data packet by a user of the user device. Switch resource and network resource utilization is optimized, as such resources are expended to authenticate a user only after the physical address of the device is determined to be valid.

With this Amendment, Claim 1 has been amended to recite in part a switching fabric configured for packet switching of the data packets to at least one output port. Claim 1 has also been amended to recite in part control logic adapted to:

    ...examine a *first data packet comprising a physical address* of a user device coupled to one of the plurality of input ports;  
    ...  
    if the authentication of the physical address indicates the physical address is valid, authenticate *user information provided in a second data packet* by a user of the user device *after the physical address is authenticated* ...  
(emphasis added)

Support for this Amendment is found in the specification, figures, and claims as originally filed, for example ¶¶ 35-39, 53-55, and 60-62; and FIG. 3 reference numerals 304, 306, 310, and 312. The Applicant respectfully submits the limitations of Claim 1 as presently amended are not disclosed or suggested by the cited art of record.

The Examiner also refers to Tsuchiya et al. regarding the Examiner's contention that the cited references disclose authenticating user information provided by a user of the user device only if the physical address is valid. The portion of Tsuchiya et al. cited by the Examiner speaks generally about creating a host table by learning a source MAC address and a source IP address of a packet, and if an entry corresponding to the source IP address is not found in the host table, prompting for a user name and password. Then a message is sent to verify the received information. Thus, in Tsuchiya et al., user authentication is performed if the source *IP* address (not a physical address) is *not* found (indicating it is invalid). In other words, the user authentication of Tsuchiya et al. is not done only if a physical address is valid as required by Claim 1. Instead, user authentication in Tsuchiya et al. is done if something *other* than the physical address (the IP address) is *invalid*.

In support of the Examiner's contention that Tsuchiya et al. discloses restricting access to the one of the plurality of input ports in accordance with a user policy associated with the user information only if the user information is valid, the Examiner refers also refers to portions of Tsuchiya et al. that disclose performing user authentication if something *other* than the physical address (the IP address) is *invalid*. Nowhere does the portion of Tsuchiya et al. cited by the Examiner disclose restricting access to the one of the plurality of input ports in accordance with a

user policy associated with the user information *if the user information is valid* as required by Claim 1.

As the limitations of presently amended Claim 1 are not disclosed or suggested by the cited art of record, the Applicants respectfully submit Claim 1 is allowable over the cited art of record. Accordingly, withdrawal of the 35 U.S.C. § 103 rejection of Claim 1 based on Tsuchiya et al. in view of Mao et al. and further in view of Kameda is respectfully requested.

#### Claims 13 and 23

Claim 13 is a method claim corresponding to apparatus claim 1. Claim 23 is a system claim corresponding to apparatus claim 1. Claim 1 being allowable, Claims 13 and 23 must be allowable for at least the same reasons as Claim 1.

#### Dependent Claims 2-12, 14-22, 24-34, and 44-46

Claims 2-12 and 44 depend from Claim 1. Claims 14-22 and 45 depend from Claim 13. Claims 24-34 and 46 depend from Claim 23. Claims 1, 13, and 23 being allowable, Claims 2-12, 14-22, 24-34, and 44-46 must also be allowable for at least the same reasons as for Claims 1, 13, and 23.

#### Claims 38, 40, and 42

Claims 38, 40, and 42 include limitations similar to Claims 1, 13, and 23, respectively. The arguments made above with respect to the 35 U.S.C. § 103 rejection of independent Claims 1, 13, and 23 apply here as well. The 35 U.S.C. § 103 rejection of Claims 1, 13, and 23 is

unsupported by the cited art of record because each and every element as set forth in Claims 1, 13, and 23 as presently amended is not taught or suggested by Tsuchiva et al. in view of Mao et al., and further in view of Kameda. Accordingly, the 35 U.S.C. § 103 rejection of claims 38, 40, and 42 based on Tsuchiva et al. in view of Mao et al., and further in view of Kameda is also unsupported by the cited art of record. Withdrawal of the 35 U.S.C. § 103 rejection of Claims 38, 40, and 42 is respectfully requested.

Dependent Claims 39, 41, and 43

Claims 39, 41, and 43, depend from Claims 38, 40, and 42, respectively. Claims 38, 40, and 42 being allowable, Claims 39, 41, and 43 must also be allowable for at least the same reasons as for Claims 38, 40, and 42.

In view of the foregoing, it is respectfully asserted that the claims are now in condition for allowance.

Conclusion

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

The Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Please charge any additional required fee or credit any overpayment not otherwise paid or credited to our deposit account No. 50-3557.

Respectfully submitted,

NIXON PEABODY LLP

Dated: December 10, 2009

/John P. Schaub/

John P. Schaub

Reg. No. 42,125

NIXON PEABODY LLP  
P.O. Box 60610  
Palo Alto, CA 94306  
Tel. (650) 320-7700  
Fax. (650) 320-7701